

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Eric Ho,

Civil No. 12-126 (DWF/LIB)

Plaintiff,

v.

**ORDER ADOPTING REPORT
AND RECOMMENDATION**

United States of America; Warden Brian Jett,
FMC Rochester, Individually, and in his
official capacity; Federal Employees of the
BOP and/or FMC-Rochester; John Doe,
Individually, and in their official capacity;
and Jane Doe, Individually, and in their
official capacity,

Defendants.

The above matter comes before the Court upon the Report and Recommendation of United States Magistrate Judge Leo I. Brisbois dated December 11, 2012. No objections have been filed to that Report and Recommendation in the time period permitted. The factual background for the above-entitled matter is clearly and precisely set forth in the Report and Recommendation and is incorporated by reference. Based upon the Report and Recommendation of the Magistrate Judge and upon all of the files, records, and proceedings herein, the Court now makes and enters the following:

ORDER

1. Magistrate Judge Leo I. Brisbois's December 11, 2012 Report and Recommendation (Doc. No. [45]) is **ADOPTED**.
2. Plaintiff's Motion to Amend Complaint (Doc. No. [23]) is **GRANTED**.

3. That Defendants' Alternative Motion for Summary Judgment (Doc. No. [8]) is **DENIED WITHOUT PREJUDICE**.

4. Defendants' Motion to Dismiss (Doc. No. [8]) is **GRANTED IN PART** and **DENIED IN PART**, as described in Part II.C, in the Report and Recommendation dated December 11, 2012.

Dated: January 15, 2013

s/Donovan W. Frank
DONOVAN W. FRANK
United States District Judge